

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

GEORGE PEABODY, <i>Ex Rel United</i>	)	CV. NO. 07-00148 ACK-BMK
<i>States of America,</i>	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
HELEN GILLMOR; MARY ROSE	)	
FERIA; SUE BEITIA; SAMUEL P.	)	
KING; J. MICHAEL SEABRIGHT,	)	
	)	
Defendants.	)	
_____	)	

FINDINGS AND RECOMMENDATION THAT CASE BE DISMISSED

Plaintiff George Peabody, proceeding pro se, filed the instant lawsuit on March 20, 2007. Plaintiff has not yet served any of the Defendants. Pursuant to Rule 16 of the Federal Rules of Civil Procedure, a Scheduling Conference was set for August 13, 2007. Plaintiff George Peabody did not appear at the Rule 16 Scheduling Conference. On August 14, 2007, the Court issued an Order to Show Cause, ordering Plaintiff to show cause on August 29, 2007, at 2:00 p.m., why this case should not be dismissed for Plaintiff's failure to serve the complaint and appear at the Rule 16 Scheduling Conference. Although Plaintiff appeared at the hearing on the Order to Show Cause, he failed to show good cause why he has not

complied with the rules and orders of this Court. He also did not show good cause for his failure to serve the complaint.

Rule 4(m) of the Federal Rules of Civil Procedure provides that if service of the complaint is not made within 120 days of the filing of the complaint, the court shall dismiss the action. Failure to comply with court orders also is not taken lightly. Rule 16(f) of the Federal Rules of Civil Procedure provides, in pertinent part:

If a party or party's attorney fails to obey a scheduling or pretrial order, . . . the judge, upon motion or the judge's own initiative, may make such orders with regard thereto as are just, and among others any of the orders provided in Rule 37(b)(2)(B), (C), (D).

Rule 37(b)(2)(C) provides that if a party fails to obey a court order, the court may "dismiss[] the action or proceeding or any part thereof."

In view of Plaintiff's failure to show good cause for not properly serving the complaint within the time required and for Plaintiff's failure to comply with court orders, the Court RECOMMENDS that Plaintiff's case be dismissed.

IT IS SO FOUND AND RECOMMENDED.



/s/ Barry M. Kurren  
United States Magistrate Judge  
Dated: August 30, 2007

GEORGE PEABODY, *Ex Rel United States of America* v. HELEN GILLMOR, et al.; Cv. No. 07-00148 ACK-BMK; FINDINGS AND RECOMMENDATION THAT CASE BE DISMISSED.